

Text of Proposed Amendment:

PROPOSED AMENDMENT TO NRS 111

by WASHOE COUNTY

REASON: NRS 111.273 originally created in 1965 made any covenants related to restrictive discriminatory language prohibited and unenforceable. SB117 from the 2019 Legislative Session was passed to address these covenants by creating NRS111.2375, which created a form for individuals to file to have the language removed. In practice however it was discovered that NRS 111.237 allows for the filing of those applications with the Recorder's Office it did not grant the authority for the recorder to actual redact that information, but rather file the application with the other property documents.

This proposal adds to NRS 111.237(5) to state that when the application is filed, the recorder shall redact such information from future reproductions of the documents. This will allow for the original intent of SB117 to be carried out. To help ensure statewide continuity we have added a definition of "redact" to NRS 111.010.

Current law requires action on the part of the property owner to have such discriminatory restrictive language to be redacted. We would like to have the authority for a board of county commissioners to be able to pass an ordinance that allows the recorder's office to be able to proactively go through the county records and redact the covenant. This would remove the requirement for individuals to file and application for that action to occur. This means that the cost for staff to make the redactions would fall on the county to absorb. This is accomplished by the addition of NRS 111.237(7).

EXPLANATION: Matter in (1) *blue bold italics* is new language; (2) ~~red strikethrough~~ is deleted language.

NRS 111.010 Definitions. As used in this chapter:

1. "Conveyance" shall be construed to embrace every instrument in writing, except a last will and testament, whatever may be its form, and by whatever name it may be known in law, by which any estate or interest in lands is created, aliened, assigned or surrendered.

2. "Estate and interest in lands" shall be construed and embrace every estate and interest, present and future, vested and contingent, in lands as defined in subsection 3.

3. "Lands" shall be construed as coextensive in meaning with lands, tenements and hereditaments, and shall include in its meaning all possessory right to the soil for mining and other purposes.

4. *"Redact" means the process of rerecording of a document that originally contained unlawful restrictive language, and when presented to the county recorder for rerecording, no longer contains the unlawful language or the unlawful language is masked so that it is not readable or visible.*

[74:9:1861; B § 302; BH § 2643; C § 2713; RL § 1088; NCL § 1545] + [75:9:1861; B § 303; BH § 2644; C § 2714; RL § 1089; NCL § 1546]

NRS 111.237 Prohibition or restriction based on race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation or gender identity or expression.

1. Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing or mortgaging of such real property to any person of a specified race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is void and unenforceable and every restriction or prohibition as to the use or occupation of real property because of the user's or occupier's race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is void and unenforceable.

2. Every restriction or prohibition, whether by way of covenant, condition upon use or occupation, or upon transfer of title to real property, which restriction or prohibition directly or indirectly limits the acquisition, use or occupation of such property because of the acquirer's, user's or occupier's race, color, religion, ancestry, national origin, disability, familial status, sex, sexual orientation, or gender identity or expression is void and unenforceable.

3. The owner or owners of any real property subject to a restriction or prohibition that is void and unenforceable by operation of law pursuant to subsection 1 or 2 may record a form prescribed by the Real Estate Division of the Department of Business and Industry pursuant to [NRS 111.2375](#) declaring that all such restrictions or prohibitions are removed from the referenced original written instrument.

4. The form must be completed and signed by the owner or owners of the real property and filed in the office of the county recorder in which the real property is located.

5. If the form is filed with the appropriate county recorder pursuant to subsection 4, the county recorder shall record and index the form with any other restriction or prohibition upon real property, including, without limitation, real property within a common-interest community pursuant to [chapter 116](#) of NRS. *The county recorder shall then redact the discriminatory restrictive language from any new copies of the property documents created.*

6. If the form is not filed with the county recorder of the appropriate county pursuant to subsection 4, the county recorder shall transfer the form to the county recorder of the appropriate county for recording and indexing in the manner described in subsection 5.

7. A board of county commissioners may upon passage of an ordinance have the discriminatory restrictive language listed in sections 1 and 2 be redacted from new copies of records requested or filed be redacted without the requirement of a request from the property owner and at the cost of the county.

7. Nothing in this section regarding familial status shall be construed to apply to housing for older persons so long as such housing complies with the requirements of 42 U.S.C. § 3607.

8. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Familial status" means the fact that a person:

(1) Lives with a child under the age of 18 and has:

(I) Lawful custody of the child; or

(II) Written permission to live with the child from the person who has lawful custody of the child;

(2) Is pregnant; or

(3) Has begun the proceeding to adopt or otherwise obtain lawful custody of a child.

(Added to NRS by [1965, 763](#); A [2017, 1060](#); [2019, 373](#))